

Of Counsel:
ALSTON HUNT FLOYD & ING
Attorneys At Law
A Law Corporation

PAUL ALSTON 1126-0
MEI-FEI KUO 7377-0
SHELLIE K. PARK-HOAPILI 7885-0
American Savings Bank Tower
1001 Bishop Street, 18th Floor
Honolulu, Hawai'i 96813
Telephone: (808) 524-1800
E-Mail: palston@ahfi.com

Attorneys for Plaintiff
SYNAGRO TECHNOLOGIES, INC.

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI'I

SYNAGRO TECHNOLOGIES, INC.,) CIVIL NO. CV04-00509 SPK LEK
Plaintiff,)
vs.) SYNAGRO TECHNOLOGIES, INC'S AMENDED MOTION FOR ATTORNEYS' FEES AND RELATED NON-TAXABLE EXPENSES; MEMORANDUM IN SUPPORT OF MOTION; DECLARATION OF JAMES P. CARMICHAEL; DECLARATION OF PAUL ALSTON; EXHIBITS "A"- "H"; CERTIFICATE OF SERVICE
GMP HAWAI'I, INC.,)
Defendant.)
)
)
) Non-Hearing Motion
)
)

**PLAINTIFF SYNAGRO TECHNOLOGIES, INC.'S AMENDED MOTION FOR
ATTORNEYS' FEES AND RELATED NON-TAXABLE EXPENSES**

As the prevailing party in this action, Plaintiff
SYNAGRO TECHNOLOGIES, INC. ("Synagro"), by and through its
attorneys, Alston Hunt Floyd & Ing, hereby requests an award of

attorneys' fees and related non-taxable expenses against Defendant GMP Hawai'i, Inc. ("GMP").

On April 21, 2006, Synagro filed a Motion for Attorneys' Fees and Related Non-Taxable Expenses ("Motion for Fees and Expenses"). This Amended Motion modifies Synagro's request for attorneys' fees and expenses by adding the attorneys' fees and expenses related to (1) Synagro's claim for declaratory judgment in the Complaint (in the amount of \$2,074.50.00), and (2) the fees incurred to date related to the drafting and filing of the Motion for Fees and Expenses and the Bill of Costs (in the amount of \$11,134.71), which will continue to incur if the parties cannot reach a resolution and the motion is further briefed.

On January 11, 2006, the Court entered its *Order Granting Plaintiff's Renewed Motion For Summary Judgment On Defendant's Counterclaim And Denying Defendant's Motion For Leave To File Amended Counterclaim* (hereinafter "Summary Judgment Order"). In its Order, the Court rejected all of GMP's counterclaims against Synagro and, by implication, validated Synagro's claim for a declaratory ruling that it owed no unmet contractual obligations to GMP. As the prevailing party on GMP's Counterclaim and the Complaint for declaratory judgment, both of which are in the nature of assumpsit, Synagro is entitled to an

award of attorneys' fees and related non-taxable expenses as a matter of law.

By this Motion, Synagro seeks an award against GMP for **\$93,214.87** in attorneys' fees and **\$242.94** in related non-taxable expenses, totaling **\$93,457.81**, which were reasonably and necessarily incurred in defending against and prevailing on GMP's untenable implied contract claim and request for punitive damages set forth in its Counterclaim, as well as pursuing and prevailing on Synagro's claim for declaratory judgment in the Complaint. Synagro has also separately filed an *Amended Bill of Costs*, pursuant to Local Rule ("L.R.") 54.2, concurrently with this Motion.

This Motion is brought pursuant to Fed. R. Civ. P. Rules 7 and 54(d), Local Rules 7.2 and 54.3, and Haw. Rev. Stat. §§ 607-14 and 607-9, and is supported by the accompanying memorandum of law, the declarations, and exhibits attached hereto, and the records and files in this matter.

DATED: Honolulu, Hawai'i, May 26, 2006.

/s/ MEI-FEI KUO
PAUL ALSTON
MEI-FEI KUO
SHELLIE K. PARK-HOAPILI
Attorneys for Plaintiff
SYNAGRO TECHNOLOGIES, INC.